

NATIONAL HISTORIC PRESERVATION ACT AMENDMENTS OF 1980

SEPTEMBER 16 (legislative day, JUNE 12), 1980.—Ordered to be printed

Mr. BUMPERS, from the Committee on Energy and Natural Resources,
submitted the following

REPORT

[To accompany S. 3116]

The Committee on Energy and Natural Resources, having considered the same, reports favorably a bill (S. 3116) to amend the National Historic Preservation Act of 1966, and for other purposes, and recommends that the bill do pass.

The text of the bill is as follows:

That this Act may be cited as the "National Historic Preservation Act Amendments of 1980".

TITLE I—FINDINGS AND POLICY OF NATIONAL HISTORIC PRESERVATION ACT

SEC. 101. (a) The first section of the Act of October 15, 1966 (16 U.S.C. 470-470t), is amended to read as follows:

"SEC. 1. (a) This Act may be cited as the 'National Historic Preservation Act'.

"(b) The Congress finds and declares that—

"(1) the spirit and direction of the Nation are founded upon and reflected in its historic heritage;

"(2) the historical and cultural foundations of the Nation should be preserved as a living part of our community life and development in order to give a sense of orientation to the American people;

"(3) historic properties significant to the Nation's heritage are being lost or substantially altered, often inadvertently, with increasing frequency;

"(4) the preservation of this irreplaceable heritage is in the public interest so that its vital legacy of cul-

tural, educational, aesthetic, inspirational, economic, and energy benefits will be maintained and enriched for future generations of Americans;

"(5) in the face of ever-increasing extensions of urban centers, highways, and residential, commercial, and industrial developments, the present governmental and nongovernmental historic preservation programs and activities are inadequate to insure future generations a genuine opportunity to appreciate and enjoy the rich heritage of our Nation;

"(6) the increased knowledge of our historic resources, the establishment of better means of identifying and administering them, and the encouragement of their preservation will improve the planning and execution of Federal and federally assisted projects and will assist economic growth and development; and

"(7) although the major burdens of historic preservation have been borne and major efforts initiated by private agencies and individuals, and both should continue to play a vital role, it is nevertheless necessary and appropriate for the Federal Government to accelerate its historic preservation programs and activities, to give maximum encouragement to agencies and individuals undertaking preservation by private means, and to assist State and local governments and the National Trust for Historic Preservation in the United States to expand and accelerate their historic preservation programs and activities."

(b) Such Act is further amended by inserting immediately after the first section thereof the following new section:

"Sec. 2. It shall be the policy of the Federal Government, in cooperation with other nations and in partnership with the States, local communities, Indian tribes, and private organizations and individuals to—

"(a) use measures, including financial and technical assistance, to foster conditions under which our modern society and our prehistoric and historic resources can exist in productive harmony and fulfill social, economic, and other requirements of present and future generations;

"(b) provide leadership in the preservation of the prehistoric and historic resources of the United States and of the international community of nations;

"(c) administer federally owned, administered, or controlled prehistoric and historic resources in a spirit of stewardship for the inspiration and benefit of present and future generations;

"(d) contribute to the preservation of nonfederally owned prehistoric and historic resources and give maximum encouragement to organizations and individuals undertaking preservation by private means;

“(e) encourage the public and private preservation and utilization of all usable elements of the Nation’s built environment; and

“(f) assist State and local governments and the National Trust for Historic Preservation in the United States to expand and accelerate their historic preservation programs and activities.”.

TITLE II—HISTORIC PRESERVATION PROGRAM

SEC. 201. Section 101 of the National Historic Preservation Act is amended to read as follows:

“SEC. 101. (a) (1) (A) The Secretary of the Interior shall establish a continuing program to identify and evaluate this Nation’s cultural resources and to expand and maintain a National Register of Historic Places composed of districts, sites, buildings, structures, and objects of national, State, and local significance in American prehistory, history, architecture, archeology, engineering, and culture.

“(B) Properties meeting the criteria for national significance established pursuant to paragraph (2) shall be designated as ‘National Historic Landmarks’ and included in the National Register. All historic properties now included in the National Register shall be deemed to be included in the National Register as of their initial listing for purposes of this Act. All historic properties listed in the Federal Register of February 6, 1979, as ‘National Historic Landmarks’ or thereafter prior to the effective date of this Act are declared by Congress to be National Historic Landmarks of national historic significance as of their initial listing as such in the Federal Register for purposes of this Act: *Provided*, That in cases of National Historic Landmark districts for which no boundaries have been established, boundaries must first be published in the Federal Register and submitted to the Committee on Energy and Natural Resources of the United States Senate and to the Committee on Interior and Insular Affairs of the United States House of Representatives.

“(2) The Secretary shall establish or revise criteria for properties to be included in the National Register and criteria for historic properties which are of national significance, and shall promulgate or revise regulations as may be necessary for—

“(A) nominating properties for inclusion in or removing them from the National Register by Federal agencies and State Historic Preservation Officers, and the recommendation of properties by certified local governments;

“(B) designating properties as National Historic Landmarks;

“(C) considering appeals from such recommendations, nominations, or designations, or the failure to nominate or designate made by an owner of an affected

property, the applicable local government, or the general public;

“(D) nominating properties for inclusion in the World Heritage List in accordance with the terms of the Convention Concerning the Protection of the World Cultural and Natural Heritage;

“(E) making determinations of eligibility of properties for inclusion in the National Register; and

“(F) notifying the owner of a property, any appropriate local governments, and the general public when a property is being considered for inclusion in the National Register or for designation as a National Historic Landmark.

“(3) Any State which is carrying out a program approved under subsection (b), and any Federal agency pursuant to section 110, shall nominate to the Secretary a property for inclusion in the National Register when it meets the criteria promulgated under subsection (a). Any property nominated under this paragraph shall be included in the National Register on the date 45 days after receipt by the Secretary of the nomination and the necessary documentation, unless the Secretary disapproves such nomination within that 45-day period.

“(4) Any person or local government may propose that a State consider a property for nomination for inclusion in the National Register.

“(5) The Secretary shall promulgate or revise regulations for—

“(A) ensuring that significant prehistoric and historic artifacts, and associated records subject to section 110 or the Act of June 27, 1960 (16 U.S.C. 469o), are deposited in an institution with adequate long-term curatorial capabilities;

“(B) establishing a uniform process and standards for documenting historic properties by public agencies and private parties for purposes of their incorporation into, or complementing, the national historical architectural and engineering records within the Library of Congress; and

“(C) certifying local governments, in accordance with this Act, and for the allocation of funds pursuant to section 103 (c) of this Act.

“(b) (1) The Secretary shall develop or revise regulations for State Historic Preservation Programs. These programs may include appropriate governmental mechanisms for the professional preservation of historic properties and assistance to local governments and private organizations and individuals undertaking preservation activities, such as grants, loans, loan guarantees, education, training, and any other mechanisms as the Secretary determines will carry out the purposes of this Act. The regulations shall provide that a State program submitted to the Secretary under this section shall be

approved by the Secretary if he determines that the program—

“(A) provides for the designation by the Governor of a ‘State Historic Preservation Officer’ to administer the program in accordance with paragraph (4) and for the employment or appointment by the officer of any professionally qualified staff as may be necessary for such purposes;

“(B) provides for an adequate and qualified State Review Board designated by the State Historic Preservation Officer unless otherwise provided for by State law; and

“(C) provides for adequate public participation in the State Historic Preservation Program, including the process of recommending properties for nomination to the National Register.

“(2) Not less than every four years after the approval of any State program under this subsection, the Secretary shall evaluate the program to make a determination as to whether or not it is in compliance with the requirements of this Act. If at any time, the Secretary determines that a State program does not comply with such requirements, he shall disapprove the program, and suspend in whole or in part assistance to that State under subsection (d) (1), unless there are adequate assurances that the program will comply with such requirements within a reasonable period of time. The Secretary may also conduct periodic fiscal audits of State programs approved under this part.

“(3) It shall be the responsibility of the State Historic Preservation Officer to administer the State Historic Preservation Program and to—

“(A) direct and conduct a comprehensive statewide survey of historic properties and maintain inventories of these properties in cooperation with local governments and private organizations and individuals;

“(B) identify and nominate eligible properties to the National Register and otherwise administer applications for listing historic properties in or removing them from the National Register;

“(C) prepare and implement a comprehensive statewide historic preservation plan;

“(D) administer the State program of Federal assistance for historic preservation within the State;

“(E) advise and assist, as appropriate, Federal agencies and local governments in carrying out their historic preservation responsibilities;

“(F) cooperate with the Secretary, the Advisory Council on Historic Preservation, and other Federal, State, and local agencies, and organizations and individuals to ensure that historic properties are taken into consideration at all levels of planning and development;

“(G) provide public information, education and train-

ing and technical assistance relating to the Federal and State Historic Preservation Programs; and

“(H) cooperate with local governments in the development of local historic preservation programs and assist local governments in becoming certified pursuant to subsection (c).

“(4) Any State may carry out all or any part of its responsibilities under this subsection by contract or cooperative agreement with any qualified nonprofit organization or educational institution.

“(5) Any State historic preservation program in effect under prior authority of law, may be treated as an approved program for purposes of this subsection until the earlier of—

“(A) the date on which the Secretary approves a program submitted by the State under this subsection; or

“(B) three years after the date of enactment of the National Historic Preservation Act Amendments of 1980.

“(c) (1) Any State program approved under this section shall provide a mechanism for the certification by the State Historic Preservation Officer of local governments to carry out the purposes of this Act and provide for the transfer, in accordance with section 103(c), of a portion of the grants received by the States under this Act, to such local governments. Any local government shall be certified to participate under the provisions of this section if the applicable State Historic Preservation Officer and the Secretary certifies that the local government—

“(A) enforces appropriate State or local legislation for the designation and protection of historic properties;

“(B) has established an adequate and qualified historic preservation commission by State or local legislation;

“(C) maintains a system for the survey and inventory of historic properties that furthers the purposes of subsection (b);

“(D) provides for adequate public participation in the local historic preservation program, including the process of recommending properties for nomination to the National Register; and

“(E) satisfactorily performs the responsibilities delegated to it under this Act.

Where there is no approved State program, a local government may be certified by the Secretary if he determines that the local government meets the requirements of subparagraphs (A) through (E); and in any such case the Secretary may make grants-in-aid to the local government for purposes of this section.

“(2) (A) Before a property within the jurisdiction of the certified local government may be nominated to the Secretary for inclusion in the National Register, the State Historic Preservation Officer shall notify the owner, the applicable chief local elected official, and the local historic preservation

commission. The commission, after reasonable opportunity for public comment, shall prepare a report as to whether or not such property in its opinion meets the criteria of the National Register. Within 60 days of notice from the State Historic Preservation Officer, the chief local elected official shall transmit the report of the commission and his recommendation to the State Historic Preservation Officer. After receipt of the report and recommendation, or if no such report and recommendation are received within 60 days, the State shall make the nomination pursuant to section 101(a), except as provided in subparagraph (B) of this section. The State may expedite such process with the concurrence of the certified local government.

“(B) If both the commission and the chief local elected official recommend that a property not be nominated to the National Register, the State Historic Preservation Officer shall take no further action, unless within 30 days of the receipt of such recommendation by the State Historic Preservation Officer an appeal is filed with the State. If an appeal is filed, the State shall make the nomination pursuant to section 101(a). Any report and recommendations made under this section shall be included with any nomination submitted by the State to the Secretary.

“(3) Any local government certified under this section, or which is making efforts to become so certified, shall be eligible for purposes of qualifying for funds under the provisions of section 103(c) of this Act, and shall carry out any responsibilities delegated to it in accordance with such terms and conditions as the Secretary deems necessary or advisable.

“(d)(1) The Secretary shall administer a program of matching grants-in-aid to the States for projects and State historic preservation programs approved by the Secretary and having as their purpose the identification and preservation for public benefit of historic properties.

“(2) The Secretary shall administer a program of matching grant-in-aid to the National Trust for Historic Preservation in the United States, chartered by Act of Congress approved October 26, 1949 (63 Stat. 927), as amended, for the purposes of carrying out the responsibilities of the National Trust.

“(3)(A) In addition to the programs under paragraphs (1) and (2), the Secretary may administer a program of direct grants for the preservation of historic properties. These grants may be made by the Secretary, in consultation with any appropriate State Historic Preservation Officer—

“(i) for the preservation of National Historic Landmarks which are threatened with demolition or impairment and for the preservation of historic properties of World Heritage significance,

“(ii) for demonstration projects which will provide information concerning professional methods and techniques having application to historic properties,

- “(iii) for the training and development of skilled labor in trades and crafts relating to historic preservation; and
- “(iv) to assist persons or small businesses within any historic district to remain within the district.

“(B) The Secretary may also, in consultation with the appropriate State Historic Preservation Officer, make grants or loans or both under this section to Indian tribes and to non-profit organizations representing ethnic or minority groups for the preservation of their cultural heritage and to States having programs for cultural parks or conservation districts for demonstration projects relating to the protection of cultural resources.

“(e) In consultation with the Advisory Council on Historic Preservation, the Secretary shall promulgate guidelines for Federal agency responsibilities under section 110 of this title.

“(f) Within one year of the date of enactment of the National Historic Preservation Act Amendments of 1980, the Secretary shall establish, in consultation with the Smithsonian Institution and the Administrator of the General Services Administration, professional standards for the preservation of federally owned historic properties.

“(g) The Secretary shall develop and make available to Federal agencies, State and local governments, private organizations and individuals, and other nations and international organizations pursuant to the World Heritage Convention, training in and information concerning, professional methods and techniques for the preservation of historic properties and for the administration of the historic preservation program at the Federal, State, and local level. The Secretary shall also develop mechanisms to provide information concerning historic preservation to the general public including students.”.

SEC. 202. (a) Section 102(a)(3) of the National Historic Preservation Act is amended to read as follows:

“(3) for more than 50 per centum of the total costs of carrying out projects and programs specified in section 101(d)(1) and (2), except that for the costs of State or local preservation plans, surveys, or inventories, the Secretary shall provide 70 per centum of the costs involved. The per centum limitations shall be applied on an aggregate basis with respect to all expenditures for projects and programs during any fiscal year. Except as permitted by other law, the remaining per centum shall be contributed by non-Federal sources. Notwithstanding any other provision of law, no grant made pursuant to this Act shall be treated as taxable income for purposes of the Internal Revenue Code of 1954 or for purposes of any State or local law imposing a tax on income.”.

(b) Subsection (c) of section 102 of such Act is repealed.

SEC. 203. (a) Subsection (b) of section 103 of the National Historic Preservation Act is amended by inserting after “projects” the words “and programs”, and by striking out the second sentence thereof and substituting the following:

"The Secretary shall notify each State of its apportionment under this subsection within thirty days following the date of enactment of legislation appropriating funds under this Act."

(b) Section 103 of such Act is amended by adding at the end thereof the following:

"(c) A minimum of ten per centum of the annual apportionment distributed by the Secretary to each State for the purposes of carrying out this Act shall be used, pursuant to the requirements of this Act, for historic preservation projects or programs of local governments which are either certified under section 101(c) or are making efforts to become so certified. In any year in which the annual apportionment to the States exceeds \$65,000,000, one-half of the excess shall also be distributed to local governments certified or making efforts to become certified pursuant to section 101(c).

"(d) The Secretary shall establish guidelines for the use and distribution of funds under subsection (c) to insure that no local government receives a disproportionate share of the funds available and may include a limitation on the amount of funds distributed to any single local government. The guidelines shall not limit the ability of any State to distribute more than ten per centum of its annual apportionment under subsection (c), nor shall the Secretary require any State to exceed the ten per centum minimum distribution to local governments."

SEC. 204. Section 104 of the National Historic Preservation Act is amended to read as follows:

"SEC. 104. (a) The Secretary shall establish and maintain a program by which he may upon application of a private lender, insure loans (including loans made in accordance with a mortgage) made by such lender to finance any project for the preservation of a historic property.

"(b) A loan may be insured under this section only if—

"(1) the loan is made by a private lender approved by the Secretary as financially sound and able to service the loan properly;

"(2) the interest rate charged with respect to the loan does not exceed a rate established by the Secretary, by rule;

"(3) the Secretary has consulted the appropriate State Historic Preservation Officer concerning the preservation of the historic property;

"(4) the Secretary has determined that the loan is adequately secured and there is reasonable assurance of repayment;

"(5) the repayment period of the loan does not exceed the lesser of 40 years or the expected life of the asset financed;

"(6) the amount insured with respect to such loan does not exceed ninety per centum of the loss sustained by the lender with respect to the loan; and

“(7) the loan, the borrower, and the preservation of the historic property meet other terms and conditions as may be prescribed by the Secretary, by rule, especially terms and conditions relating to the nature and quality of the preservation work.

“(c) The aggregate unpaid principal balance of loans insured under this section and outstanding at any one time may not exceed twice the amount which has been covered into the Historic Preservation Fund pursuant to section 108 and subsections (g) and (i) of this section but which has not been appropriated for any purpose.

“(d) Any contract of insurance executed by the Secretary under this section may be assignable and shall be an obligation supported by the full faith and credit of the United States and incontestable except for fraud or misrepresentation of which the holder had actual knowledge at the time it became a holder.

“(e) The Secretary shall specify, by rule and in each contract entered into under this section, the conditions and method of payment to a private lender as a result of losses incurred by the lender on any loan insured under this section.

“(f) In entering into any contract to insure a loan under this section, the Secretary shall take steps to assure adequate protection of the financial interests of the Federal Government. The Secretary may—

“(1) in connection with any foreclosure proceeding, obtain, on behalf of the Federal Government, the property securing a loan insured under this title; and

“(2) operate or lease such property for such period as may be necessary to protect the interest of the Federal Government and to carry out subsection (g).

“(g) (1) In any case in which a historic property is obtained pursuant to subsection (f), the Secretary shall attempt to convey such property to any governmental or nongovernmental entity under such conditions as will ensure the property's continued preservation and use; except that if, after a reasonable time, the Secretary, in consultation with the Advisory Council on Historic Preservation, determines that there is no feasible and prudent means to convey such property and to ensure its continued preservation and use for the public benefit, then the Secretary may convey the property at the fair market value of its interest in such property to any entity without restriction.

“(2) Any funds obtained by the Secretary in connection with the conveyance of any property pursuant to paragraph (1) shall be covered into the Historic Preservation Fund, in addition to the amounts covered into such Fund pursuant to section 108 and subsection (i) of this section, and shall remain available in such Fund until appropriated by the Congress to carry out the purposes of this Act.

“(h) The Secretary may assess appropriate and reasonable fees in connection with insuring loans under this section.

Any such fees shall be covered into the Historic Preservation Fund, in addition to the amounts covered into such Fund pursuant to section 108 and subsection (g) of this section, and shall remain available in such Fund until appropriated by the Congress to carry out purposes of this Act.

“(i) Notwithstanding any other provision of law, any loan insured under this section shall be treated as non-Federal funds for the purposes of satisfying any requirement of any other provision of law under which Federal funds to be used for any project or activity are conditioned upon the use of non-Federal funds by the recipient for payment of any portion of the costs of such project or activity.

“(j) There are authorized to be appropriated after October 1, 1981, such sums as may be necessary to carry out the activities under this section.”.

SEC. 205. Section 108 of such Act is amended by inserting after the term “1981” the phrase “and \$150,000,000 for each of fiscal years 1982 through 1987”.

SEC. 206. Title I of the National Historic Preservation Act is amended by adding the following new section at the end thereof:

“SEC. 110. (a) (1) The heads of all Federal agencies shall assume responsibility for the preservation of historic properties which are owned or used by the agency. Each Federal agency having responsibility for the management of any real property shall, in carrying out the agency’s responsibilities under other provisions of Federal law, give a priority to the use, including compatible adaptive use, of historic properties that are owned or used by the agency. Each agency shall undertake, consistent with the preservation of such properties, the mission of the agency, and the professional standards established pursuant to section 101(f), any preservation as may be necessary to carry out this section.

“(2) With the advice of the Secretary and in cooperation with the State Historic Preservation Officer for the State involved, each Federal agency shall locate, inventory, and nominate to the Secretary all properties owned or used by the agency that appear to qualify for inclusion in the National Register in accordance with the regulations promulgated under section 101(a)(2)(A). Each Federal agency shall exercise caution to assure that any such property that might qualify for inclusion is not inadvertently transferred, sold, demolished, substantially altered, or allowed to deteriorate significantly.

“(b) Each Federal agency shall initiate measures to assure that where, as a result of Federal action or assistance carried out by the agency, a historic property is to be substantially altered or demolished, timely steps are taken to make or have made appropriate records, and that these records then be deposited, in accordance with section 101(a), in the Library of Congress or with any other appropriate agency as may be designated by the Secretary, for future use and reference.

"(c) The head of each Federal agency shall designate a qualified official to be the agency's 'Preservation Officer', who shall be responsible for coordinating that agency's activities under this Act. Each Federal agency shall also develop a system to provide for the designation of qualified officials at the field or regional level, as appropriate, to assist the Preservation Officer in carrying out his functions. Each Preservation Officer and official designated at the field or regional level may, in order to be considered qualified, satisfactorily complete the training program established by the Secretary pursuant to section 101(g).

"(d) All Federal agencies shall carry out agency programs and projects (including those under which any Federal assistance is provided or any Federal license, permit, or other approval is required) in accordance with the purposes of this Act and, consistent with the agency's missions and mandates, give a priority to programs and projects which will further the purposes of this Act.

"(e) Prior to the approval of any Federal undertaking which may adversely affect any National Historic Landmark, the head of any Federal agency shall determine that no prudent and feasible alternative to such undertaking exists, shall, to the maximum extent possible, undertake such planning and actions as may be necessary to minimize harm to such landmark, and shall afford the Advisory Council on Historic Preservation a reasonable opportunity to comment on the undertaking.

"(f) The Secretary shall review and approve the plans of transferees of surplus federally owned historic properties to ensure that the prehistorical, historical, architectural, or culturally significant values will be preserved or enhanced.

"(g) Each Federal agency shall include the costs of its preservation activities as eligible project costs in all undertakings of the agency or assisted by the agency. The eligible project costs shall also include amounts paid by a Federal agency to any State to be used in carrying out the preservation responsibilities of the Federal agency under this Act, and may be charged to Federal licensees and permittees as a condition to the issuance of such license or permit."

SEC. 207. Title I of the National Historic Preservation Act is further amended by adding the following at the end thereof:

"SEC. 111. (a) Notwithstanding any other provision of law, each Federal agency having responsibility for the management of any historic property may, after consultation with the Advisory Council on Historic Preservation, lease such property to any person or organization, or exchange the property with equivalent property, if the agency head determines that the lease or exchange will adequately insure the preservation of such property.

(b) The proceeds of any lease under subsection (a) may, notwithstanding any other provision of law, be retained by

the agency entering into the lease and used to defray the costs of administration, maintenance, repair, and related expenses incurred by the agency with respect to such property or other properties which are in the National Register which are owned by, or are under the jurisdiction or control of, such agency. Any surplus proceeds from such leases shall be deposited into the Treasury of the United States at the end of the second fiscal year following the fiscal year in which the proceeds were received.

“(c) The head of any Federal agency having responsibility for the management of any historic property may, after consultation with the Advisory Council on Historic Preservation, enter into contracts for the management of such property. Any contract shall contain such terms and conditions as the head of the agency deems necessary or appropriate to protect the interests of the United States and insure adequate preservation of the historic property.”

SEC. 208. Notwithstanding section 7 of the Act of June 27, 1960 (16 U.S.C. 469c), or any other provisions of law to the contrary—

(1) identification, surveys, and evaluation carried out with respect to historic properties within project areas may be treated for purposes of any law or rule of law as planning costs of the project and not as costs of mitigation;

(2) the costs of identification, surveys, evaluation, and data recovery carried out with respect to historic properties within project areas may be charged to Federal licensees and permittees as a condition to the issuance of such license or permit; and

(3) Federal agencies, with the concurrence of the Secretary and after notification to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, are authorized to waive, in appropriate cases, the 1 percent limitation contained in section 7 (a) of such Act.

TITLE III—AMENDMENTS TO TITLE II OF THE NATIONAL HISTORIC PRESERVATION ACT

SEC. 301. (a) Section 201 (a) of the National Historic Preservation Act is amended by striking out “twenty-nine” and all that follows and substituting: “the following members:

“(1) a Chairman appointed by the President selected from the general public;

“(2) the Secretary of the Interior;

“(3) the Architect of the Capitol;

“(4) the heads of four agencies of the United States (other than the Department of the Interior) the activities of which affect historic preservation, appointed by the President;

"(5) one Governor appointed by the President;

"(6) one Mayor appointed by the President;

"(7) the President of the National Conference of State Historic Preservation Officers;

"(8) the Chairman of the National Trust for Historic Preservation;

"(9) four experts in the field of historic preservation appointed by the President from the disciplines of architecture, history, archeology, and other appropriate disciplines; and

"(10) three at-large members from the general public, appointed by the President."

(b) Section 201(b) of such Act is amended by deleting "(1) and (17)" and substituting in lieu thereof "(2) through (8) (other than (5) and (6))" and by inserting the following before the period "except that, in the case of paragraphs (2) and (4), no such officer who is below the rank of Assistant Secretary may be so designated".

(c) Section 201(c) of such Act is amended to read as follows:

"(c) Each member of the Council appointed under paragraph (1), and under paragraphs (9) and (10) of subsection (a) shall serve for a term of four years from the expiration of his predecessor's term; except that the members first appointed under that paragraph shall serve for terms of one to four years, as designated by the President at the time of appointment, in such manner as to insure that the terms of not more than two of them will expire in any one year. The members appointed under paragraphs (5) and (6) shall serve for the term of their elected office but not in excess of four years. An appointed member may not serve more than two terms. An appointed member whose term has expired shall serve until that member's successor has been appointed."

(d) Section 201(d) of such Act is amended to read as follows:

"(d) A vacancy in the Council shall not affect its powers, but shall be filled not later than 60 days after such vacancy commences in the same manner as the original appointment (and for the balance of any unexpired terms). The members of the Advisory Council on Historic Preservation appointed by the President under this Act as in effect on the day before the date of enactment of the National Historic Preservation Act Amendments of 1980 shall remain in office until all members of the Council, as specified in this section, have been appointed. The members first appointed under this section shall be appointed not later than 180 days after the date of enactment of such Act."

(e) Section 201(e) of such Act is amended to read as follows:

"(e) The President shall designate a Vice Chairman, from the members appointed under paragraph (5), (6), (9), or (10). The Vice Chairman may act in place of the Chairman

during the absence or disability of the Chairman or when the office is vacant.”

(f) Section 201(f) of such Act is amended by deleting the word “fifteen” and substituting in lieu thereof the word “nine”.

(g) (1) Section 202(a) of such Act is amended by striking out “and” after the semicolon in paragraph (4), by changing the period to a semicolon and adding the word “and” at the end of paragraph (5), and adding the following new paragraph:

“(6) inform and educate Federal agencies, State and local governments, Indian tribes, other nations and international organizations and private groups and individuals as to the Council’s authorized activities.”.

(2) Section 202(b) of such Act is amended by inserting the following before the period at the end thereof: “and shall provide the Council’s assessment of current and emerging problems in the field of historic preservation and an evaluation of the effectiveness of the programs of Federal agencies, State and local governments, and the private sector in carrying out the purposes of this Act”.

(h) Section 204 of such Act is amended to read as follows:

“Sec. 204. The members of the Council specified in paragraphs (2), (3), and (4) of section 201(a) shall serve without additional compensation. The other members of the Council shall receive \$100 per diem when engaged in the performance of the duties of the Council. While away from their homes or regular places of business in the performance of services for the Council all members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code.”.

(i) The third sentence of section 205(b) of such Act is amended by inserting after the words “whenever appropriate” the phrase “including enforcement of agreements with Federal agencies”.

(j) Section 205(g) of such Act is amended by (1) inserting after the word “facilities,” in the second sentence the word “moneys,”; (2) adding the following phrase immediately before the period at the end of the last sentence: “and the Executive Director is authorized, in his discretion, to accept, hold, use, expend, and administer the same for the purposes of this Act”; and (3) striking out “(1) through (16)” and substituting “(2) through (4)”.

(k) Section 210 of such Act is amended by striking out the first sentence thereof.

(l) Section 211 of such Act is amended by adding the following at the end thereof: “The Council shall, by regulation, establish such procedures as may be necessary to provide for participation by local governments in proceedings and other actions taken by the Council with respect to undertakings re-

ferred to in section 106 which affect such local governments.”.

(m) Section 212 of such Act is amended to read as follows:

“SEC. 212. The Council shall submit its budget annually as a related agency of the Department of the Interior. There are authorized to be appropriated after October 1, 1981, such sums as may be necessary to carry out such activities of the Council as may be authorized by the Congress.”.

SEC. 302. Title II of the National Historic Preservation Act is amended by adding the following new sections at the end thereof:

“SEC. 213. To assist the Council in discharging its responsibilities under this Act, the Secretary at the request of the Chairman, shall provide a report to the Council detailing the significance of any historic property describing the effects of any proposed undertaking on the affected property, and recommending measures to avoid, minimize, or mitigate adverse effects.

“SEC. 214. The Council, with the concurrence of the Secretary, shall promulgate regulations or guidelines, as appropriate, under which Federal programs or undertakings may be exempted from any or all of the requirements of this Act when such exemption is determined to be consistent with the purposes of this Act, taking into consideration the magnitude of the exempted undertaking or program and the likelihood of impairment of historic properties.”.

TITLE IV—INTERNATIONAL ACTIVITIES AND WORLD HERITAGE CONVENTION

SEC. 401. (a) The Secretary shall direct and coordinate United States participation in the Convention Concerning the Protection of the World Cultural and Natural Heritage, approved by the Senate on October 26, 1973, in cooperation with the Secretary of State, the Smithsonian Institution, and the Advisory Council on Historic Preservation. Whenever possible, expenditures incurred in carrying out activities in cooperation with other nations and international organizations shall be paid for in any excess currency of the country or area where the expense is incurred as may be available to the United States.

(b) The Secretary shall periodically nominate properties he determines are of international significance to the World Heritage Committee on behalf of the United States. No property may be so nominated unless it has previously been determined to be of national significance. Each nomination shall include evidence of such legal protections as may be necessary to ensure preservation of the property and its environment, including restrictive covenants, easements, or other forms of protection.

SEC. 402. Prior to the approval of any Federal undertaking outside the United States which may directly and adversely affect a property which is on the World Heritage List or on

the applicable country's equivalent of the National Register, the head of a Federal agency having direct or indirect jurisdiction over such undertaking shall take into account the effect of the undertaking on such property for purposes of avoiding or mitigating any adverse effects.

TITLE V—GENERAL, ADMINISTRATIVE, AND MISCELLANEOUS PROVISIONS

SEC. 501. The National Historic Preservation Act is amended by adding the following new title at the end thereof:

"TITLE III

"SEC. 301. As used in this Act, the term—

"(1) 'Agency' means 'agency' as such term is defined in section 551 of title 5, United States Code.

"(2) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Trust Territories of the Pacific Islands.

"(3) 'Local government' means a city, county, parish, township, municipality, borough, or any other general purpose subdivision of a State.

"(4) 'Indian tribe' means the governing body of any Indian tribe, band, nation, or other group which is recognized as an Indian tribe by the Secretary of the Interior and for which the United States holds land in trust or restricted status for that entity or its members, and also native villages and regional corporations established pursuant to the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1701 et seq.).

"(5) 'Historic property' or 'historic resource' means any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in the National Register; such term includes artifacts, records, and remains which are related to such a district, site, building, structure, or object.

"(6) 'National Register' or 'Register' means the National Register of Historic Places established under section 101.

"(7) 'Undertaking' means any action as described in section 106.

"(8) 'Preservation' or 'historic preservation' includes identification, evaluation, recordation, documentation, curation, acquisition, protection, management, rehabilitation, restoration, stabilization, maintenance and reconstruction of historic properties, or any combination of the foregoing activities.

"(9) 'Secretary' means the Secretary of the Interior unless otherwise specified.

"SEC. 302. Each Federal agency is authorized to expend funds appropriated for its authorized programs for the purposes of this Act.

"SEC. 303. (a) The Secretary is authorized to accept donations and bequests of money and personal property for the purposes of this Act and shall hold, use, and expend and administer the same for such purposes.

"(b) The Secretary is authorized to accept gifts or donations of less than fee interests in any historic property where the acceptance of such interests will facilitate the conservation or preservation of such properties. Nothing in this section or in any provision of this Act shall be construed to affect or impair any other authority of the Secretary under other provision of law to accept or acquire any property for conservation or preservation or for any other purpose.

"SEC. 304. The head of any Federal agency, after consultation with the Secretary, shall withhold from disclosure to the public information relating to the location of historic resources whenever the head of the agency or the Secretary of the Interior determines that the disclosure of such information would create a substantial risk or harm, theft, or destruction to such resources or to the area or place where such resources are located.

"SEC. 305. In any civil action brought in a United States district court by any interested person to enforce the provisions of this Act and who prevails, the court may award attorneys' fees, expert witness fees, and other costs of participating in such action, as the court deems reasonable."

SEC. 502. The Secretary of the Interior, in cooperation with the American Folklife Center of the Library of Congress shall, within two years after the date of the enactment of this Act, submit a report to the President and the Congress on preserving and conserving the intangible elements of our cultural heritage such as arts, skills, folklife, and folkways. The report shall take into account the view of other public and private organizations, as appropriate. This report shall include recommendations for legislative and administrative actions by the Federal Government in order to preserve, conserve, and encourage the continuation of the diverse traditional prehistoric, historic, ethnic, and folk cultural traditions that underlie and are a living expression of our American heritage.

SEC. 503. The Advisory Council on Historic Preservation, in cooperation with the Secretary of the Interior and the Secretary of the Treasury, shall submit a report to the President and the Congress on Federal tax laws relating to historic preservation or affecting in any manner historic preservation. Such report shall include recommendations respecting amendments to such laws which would further the purposes of this Act. Such report shall be submitted within one year after the date of enactment of this Act.

SEC. 504. The Secretary of the Interior shall submit a report directly to the President and the Congress on or before June 1, 1986, reviewing the operation of the Historic Preservation Fund and the national historic preservation program

since the enactment of this Act and recommending appropriate funding levels, the time period for the reauthorization for appropriations from the fund, and other appropriate legislative action to be undertaken upon the expiration of the current fund authorization.

SEC. 505. (a) In accordance with the declaration of the Congress in Public Law 95-596 (92 Stat. 2545), and in order to provide a national center to commemorate and encourage the building arts, the Secretary and the Administrator of the General Services Administration are authorized and directed to enter into a cooperative agreement with the Committee for a National Museum of the Building Arts, Inc., a nonprofit corporation organized and existing under the laws of the District of Columbia, or its successor, for the operation of a National Museum for the Building Arts in the Federal Building located in the block bounded by Fourth Street, Fifth Street, F Street, and G Street, Northwest in Washington, D. C. to—

(1) collect and disseminate information concerning the building arts, including the establishment of a national reference center for current and historic documents, publications, and research relating to the building arts;

(2) foster educational programs relating to the history, practice, and contribution to society of the building arts, including promotion of imaginative educational approaches to enhance understanding and appreciation of all facets of the building arts;

(3) publicly display temporary and permanent exhibits illustrating, interpreting, and demonstrating the building arts;

(4) sponsor or conduct research and study into the history of the building arts and their role in shaping our civilization; and

(5) encourage contributions to the building arts.

(b) For purposes of this section, the term "building arts" includes, but shall not be limited to, all practical and scholarly aspects of prehistoric, historic, and contemporary architecture, archaeology, construction, building technology and skills, landscape architecture, preservation, building and construction, engineering, urban and community design and renewal, city and regional planning and related professions, skills, trades, and crafts.

(c) The Administrator of the General Services Administration shall make appropriate portions of the building available to the Committee without charge, and shall insure that proper maintenance and renovation of the building be conducted to assure the preservation and operation of the building. Such renovation shall as far as practicable: (1) be commenced immediately; (2) preserve, enhance, and restore the distinctive and historically authentic architectural character of the site; and (3) retain the availability of the central court

of the building, or portions thereof, for appropriate public activities.

PURPOSE OF THE MEASURE

The purpose of the bill, as reported by the Committee on Energy and Natural Resources, is to amend the Act of October 15, 1966, as amended, the National Historic Preservation Act. The bill codifies the Federal-State relationship with regard to historic preservation which has evolved since 1966, specifies Federal agency historic preservation responsibilities, provides for more local government involvement, and reorganizes the Advisory Council on Historic Preservation.

As reported, the bill also contains a number of miscellaneous related historic preservation provisions which are discussed in the "Section-by-Section" analysis of this report.

BACKGROUND AND NEED

Since the Act of October 15, 1966 was enacted, interest in historic preservation has increased substantially. In response to this growing interest and concern, the Federal government has provided increased financial and technical assistance to individuals, as well as other governmental entities. In recent years, an executive order has been issued and numerous regulations have been promulgated to implement the 1966 Act. Minor amendments to the Act were also enacted into law in 1973, 1976, and 1978.

It has become increasingly apparent that in order for our cities and towns to remain attractive and viable places in which to live, and to make the best use of scarce energy and natural resources, it is important that the older commercial and housing stock be conserved and rehabilitated. The historic preservation program, in large part through the 50 percent matching grant program, has proven effective in helping to achieve this objective although the money has always been spread very thinly among those interested in initiating rehabilitation projects. Unfortunately, the important task of surveying and inventorying this nation's historic structures has consequently suffered at the expense of the more immediate needs of rehabilitation.

To address some of these issues, as well as other broader concerns, a portion of the President's 1977 Environmental Message, called for a Heritage Task Force to be convened to make recommendations regarding the preservation of this nation's heritage resources. The term "heritage" was applied to encompass both historic preservation and natural area conservation. The final result of the Heritage Task Force was the transmittal of legislation to Congress proposing a national heritage policy. The Administration's legislation, S. 1842, was introduced by Senator Jackson by request, and referred to the Committee on Energy and Natural Resources on September 28, 1979.

Although S. 1842 as introduced contained provisions related to natural area conservation, the subsequent amendments considered by the Committee and the original text ordered reported by the Committee did not include any such provisions. S. 3116 substantially expands upon the Administration's modest proposals for revisions to the historic preservation program as transmitted in S. 1842.

The Advisory Council on Historic Preservation was created by the 1966 Act, and was a part of the Department of the Interior until 1976. The Council has proven to be an effective mediator whenever conflicts arise between historic properties and proposed Federal projects. A major problem with the Council, however, have been the large number of Federal agencies on the Council has made it too cumbersome. Also, the current membership of the Council often does not assure that members with expertise from outside the Federal government are appointed. To correct these problems, the bill as reported by the Committee reduces Federal agency membership from thirteen to six, requires that four experts in the field of historic preservation be appointed, and for the first time provides for the appointment of a governor and a mayor.

The current historic preservation program is largely structured around the Federal-State relationship, with no specific reference made to the role of local governments, although local governments are where the large majority of historic structures are located. The bill as reported addresses this Committee's desire to involve local governments more effectively in the program in three ways: (1) by ensuring all local governments have the right to participate in the section 106 mitigation process; (2) by allowing local governments with certified historic preservation programs to be involved in the Historic Register nomination process; and (3) by specifying that a minimum of ten percent of each State's annual allocation for the program will be earmarked for local governments that have certified local historic preservation programs, or are making efforts to develop certified programs.

Other sections of the bill which are intended to further historic preservation include a loan insurance program; provisions to ensure proper maintenance of archeological resources; reauthorization of the Historic Preservation Fund through 1987 at the current level of \$150 million annually; clarification of federal agency responsibilities with regard to historic preservation; and recognition of the Museum of the Building Arts as a desirable joint use of the Pension Building in Washington, D.C.

HABS and HAER

The Historic American Buildings Survey (HABS), established in 1933, and the Historic American Engineering Record (HAER), begun in 1959, have produced records of professional quality and permanent value. Widely acclaimed and used, these resources comprise two of the largest and finest collections of national architecture and engineering accomplishment in the world. These programs, which have been closely guided from Washington since their inception, have carefully developed strict national standards of analysis and presentation, and serve as models for all such drawings and recording done in this country. Both programs are now conducted mainly through carefully supervised summer projects employing architectural and engineering students. One of the most important benefits of the program has been the education of these students to careful observation and high quality presentation—training which has demonstrably helped raise the standard of work done by professionals throughout the Nation.

Of particular concern to the committee is the unilateral termination of the two important advisory committees for these programs. The advisory committees have provided specialized and objective advice for sound program development. There has seldom been available sufficient professional expertise to serve our country's needs in historic preservation and this is particularly true today when larger amounts of public funds are being distributed with the hope that they will be well spent. The Committee urges that special care be taken by the Department during the merger of these programs, which is now underway, to make sure that professional and specialized advice continue. The Department should keep the Committee closely apprised of actions taken to see that this is accomplished.

The Committee has also been particularly concerned to hear that the architect teams have been mixed with other professionals in an attempt to solve social and economic problems. Solutions which normally take years of patient study to reach can hardly produce more than confusion and anxiety in the few weeks these student teams have to produce their season's product.

In addition, the Committee is concerned that current efforts to decentralize these documentation programs will have unfortunate and adverse consequences. Special steps should be taken to prevent duplication and added costs in the decentralization process. While the Committee agrees with the notion that technical assistance is documentation programs can be enhanced by close and frequent contact of Federal professionals with state and local officials and private groups undertaking their own documentation programs, there is a real need to maintain the past quality of these efforts since this has been the key to the success of the program.

LEGISLATIVE HISTORY

S. 1842 was introduced by Senator Jackson, by request, on September 28, 1979. The Subcommittee on Parks, Recreation, and Renewable Resources held hearings on S. 1842 on April 17, 1980.

During the consideration of S. 1842, an amendment in the nature of a substitute offered by Senator Bumpers was adopted by the Committee. As the substitute text differs from the bill as introduced, the Committee on Energy and Natural Resources agreed that an original text be ordered reported to the Senate.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on September 10, 1980, by unanimous vote of a quorum present recommends that the Senate pass S. 3116 without amendment.

SECTION-BY-SECTION ANALYSIS

Section 1. This section states that the bill may be cited as the "National Historic Preservation Act Amendments of 1980".

TITLE I

Section 101(a). This subsection creates a short title for the Act of October 15, 1966. The findings in this section numbered three, four, and six are new; the other findings are contained in the 1966 Act.

Section 191(b). The policies contained in this subsection are new although some are contained in Executive Order 11593, and reaffirm that historic preservation shall be an important and continuing responsibility of the Federal government.

TITLE II—HISTORIC PRESERVATION PROGRAM

Section 201. This subsection amends section 101(a) of the 1966 Act as follows:

101(a) (1). This subsection restates the Secretary of the Interior's responsibility to maintain a National Register of Historic Places, and to list National Register properties which meet the criteria established by the Secretary for National Historic Landmarks as such. Prehistory and engineering are also specifically recognized as significant to the historic character of the nation.

The purpose of this subsection is to also assure the continued validity of all National Historic Landmarks designated by the Secretary prior to the effective date of the legislation by the Congress declaring such landmarks, whether individual or districts, as National Historic Landmarks for the purposes of this legislation, the Historic Sites Act of 1935, and other applicable laws. The Federal Register of February 6, 1979, contains a listing of all such landmarks designated to that date as part of the National Register of Historic Places list. The Congressional declaration of National Historic Landmark status is effective as of the date each property was originally listed in the Federal Register as a National Historic Landmark. Recent legal challenges to the National Historic Landmark program have suggested that landmarks have been designated by the Secretary by inadequate procedures and beyond the scope of the Historic Sites Act of 1935 with respect to districts of architectural merit and other historic qualities not mentioned in the Historic Sites Act. The definition of historic values contained in the National Historic Preservation Act of 1966, as amended, is equally applicable to the historic values sought to be preserved by the Historic Sites Act of 1935, except for the latter's requirement of national historic significance. By declaring these properties as National Historic Landmarks, the Committee recognizes the Secretary's continuing authority to determine that properties have lost the historic qualities for which they were designated as National Historic Landmarks, and, accordingly, to remove such designation.

With respect to national historic districts, S. 3116 requires that before existing districts which have been previously designated national historic landmarks, but for which no boundaries have been established, can be grandfathered, there must be a map designating the exact area of the landmark filed with the committees of jurisdiction in the House and Senate and that map must be printed in the Federal Register. The Committee was informed that a number of national historic landmarks have never had official maps published. For example, in Alaska, neither the Skagway and White Pass National Landmarks,

nor the Eagle National Historic Landmarks have maps presently on file delineating their boundaries. The Committee intends that the administering agency consult with local citizens and government during the process of establishing the boundaries for landmark districts which do not have official boundaries established. By doing so, it is hoped that unnecessary conflicts between the local citizens and government, and the preservation of the historic character of these landmarks can be avoided.

Section 101(a)(2). This subsection directs the Secretary of the Interior to promulgate or revise, if necessary, regulations for criteria and procedures by which properties may be included in or removed from the National Register or listed as National Historic Landmarks. These criteria shall be the sole determinants of whether a property is included in the National Register or listed as a National Historic Landmark. The Secretary is also directed to establish regulations for appeals, for notification to property owners, local governments and the general public, and for determinations of eligibility for the National Register properties affected by Federal undertakings for the purposes of section 106 of the Act.

Section 101(a)(3). This subsection dealing with the National Register, is designed to permit the Secretary to list properties in the National Register nominated by States with approved programs or Federal agencies within forty-five days after receipt, without the necessity to substantively review each nomination. The Secretary is expected, however, to review particular nominations on a spot-check basis or as otherwise necessary to maintain the integrity of the program.

Section 101(a)(4). This subsection permits any person or local government to propose that a property be considered by the State for nomination to the Secretary for inclusion in the Register.

Section 101(a)(5). This section requires the Secretary to promulgate regulations to insure that significant prehistoric and historic artifacts and records receive proper treatment. Regulations will also be promulgated for including in the national historical architectural and engineering records, or through other methods of documentation, significant historic properties. Regulating regarding the certification of local governments for participation and funding for purposes of this Act, are also required.

Section 101(b). This section codifies the existing Federal-State relationship and respective responsibilities. These relationships are now in large part established by regulations, for the historic preservation programs currently operative in all 56 jurisdictions. This section also codifies provisions for the certification of State programs, and prescribes the responsibilities of the State Historic Preservation Officer, while permitting the Officer greater flexibility of the Officer in operating the program under this Act.

Section 101(c). This subsection providing for the certification of local governments, is one of the major innovations of these amendments. It will permit local governments which meet the specified criteria to participate directly in the historic preservation program through the State program, including funding for local programs as well as projects, and to carry out other responsibilities which the

Secretary deems appropriate. Although participation in the National Register nomination process is the only responsibility specified in this section, additional responsibilities delegated by the Secretary or the State consistent with this Act may be assumed by certified local governments. This subsection assumes that the State will process recommendations by certified local governments, or appeals of local government decisions, in accordance with the procedures established by the Secretary and the applicable State for inclusion of properties in the National Register.

Section 101(d). Paragraphs one and two of this subsection are continuations of the existing separate 50 per centum matching grant programs, and paragraph three provides additional new authority for direct grants from the historic preservation fund.

Section 101(e). The intent of this subsection is clear.

Section 101(f). This subsection will result in standards being developed for the preservation of federally owned historic properties. The Smithsonian Institution is included as a consulting party because of its special expertise in the area of archeological resources.

Section 101(g). It is expected that the Secretary will establish the programs for training and information specified in this subsection, to ensure that the widest possible audience has access to information, education, and training regarding historic preservation.

Section 202. This section directs the Secretary to provide 70 per centum funding for surveys and inventories, removing the discretionary authority for these purposes provided in the current section 102(c) of the Act. It is crucial that this function be accelerated and substantially completed as soon as practicable so that all historic properties can be taken into account at the earliest possible stage of project planning, in order to avoid or mitigate adverse effects. It is intended that States not lower their current financial commitment as a result of this provision.

Section 203(a). The intent of this subsection is clear.

Section 203(b). This subsection provides for the transfer of a minimum of ten per centum of each State's annual apportionment to local governments that are certified or are making efforts to become certified, for purposes of carrying out this Act. In States which have no local governments that are certified or making efforts to become certified, the ten per centum is intended to revert to the applicable State. Also, nothing in this subsection is intended to limit the funds granted by States to qualifying local governments to ten per centum, nor to permit the Secretary to require a State to grant more than ten per centum to such local governments.

Section 204. This section directs the Secretary of the Interior to create a loan insurance program, and is another major innovation of the amendments, intended to stimulate greater private investment for the preservation of historic properties. For example, historic properties are often located in areas which are undergoing revitalization, and may therefore be considered by private financial institutions to be high risk. Consequently, insured loans will reduce the risks to a private lender while an area is undergoing revitalization. It is anticipated that insured loans will often be able to replace the necessity for matching grant assistance to projects, while still requiring such qualifying projects to meet the Secretary's standards for preservation.

Section 205. This section reauthorizes the National Historic Preservation Fund at \$150 million annually through 1987. \$150 million is the current level of annual authorization.

Section 206. The intent of this section is to codify the minimum responsibilities expected of Federal agencies in carrying out the purposes of this Act, in accordance with guidelines to be established by the Secretary and the Advisory Council on Historic Preservation. It is not intended to change the responsibilities of Federal agencies as required by any other laws, executive orders or regulations, nor limit the President's authority to specify additional responsibilities.

Section 207. The intent of this section is clear.

Section 208. This section allows the costs of identification, surveys, and evaluation for archeological resources to be passed on to permittees or licensees. It is anticipated that any costs, passed on to a licensee or permittee pursuant to this section shall be commensurate with the actual degree and magnitude of potential adverse effects.

TITLE III—ADVISORY COUNCIL ON HISTORIC PRESERVATION

Section 301(a). This subsection reduces the current size of the Advisory Council on Historic Preservation from twenty-nine to eighteen members, while providing flexibility for the Federal agencies who will be represented Council, and ensuring that appropriate expertise will be available. Representatives of State and local governments are also assured representation on the Council for the first time.

Sections 301 (b) and (c). The subsections include technical amendments to reflect the change in membership on the Council. The restriction that designees be at last at the Assistant Secretary level has been added to ensure that designees are at appropriate policy level positions.

Section 301(d). This subsection concerns the manner of appointments to the Council. The first sentence in this subsection is intended to assure that vacancies in the Council's membership are filled as soon as feasible.

Sections 301 (e) and (f). Technical amendments to reflect changes in membership on the Council.

Section 301(g). This subsection adds information and education as a responsibility for the council to perform.

Section 301(h). This is the current authorization for the payment of per diem expenses.

Sections 101 (i), (j) and (k). The intent of these subsections are clear.

Section 301(l). This is another important amendment to existing law, to ensure that all local governments are permitted to participate in the section 106 consultation process, with respect to any negotiations and agreements which are conducted to avoid or mitigate adverse effects of Federal undertakings on historic properties within their jurisdiction.

Section 301(m). The intent of the subsection is clear and provides continuing authorization language consistent with that provided to almost all other Federal agencies.

Section 302. The new section 213 which will be added to the 1966 Act will permit the Council to require the Secretary to report on the effects of a proposed Federal undertaking in order to provide the Coun-

cil with additional information so the Council may properly discharge its responsibilities. Section 214 will permit the Council and the Secretary to exempt those Federal agencies whose programs do not impact, or which have little impact on historic preservation, from any or all of the responsibilities of Federal agencies under this Act.

TITLE IV—INTERNATIONAL ACTIVITIES AND WORLD HERITAGE CONVENTION

The intent of this title is clear.

TITLE V—GENERAL ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

Section 501. The intent of this section is clear.

Section 502. This section mandates a study to determine means by which certain intangible elements of the nation's cultural heritage can be identified and afforded appropriate protection and benefits, such as those now accorded tangible cultural resources under this Act. These intangible resources include such things as crafts, music, dance, and folk art, all of which are now being studied by the American Folklife Center, a part of the Library of Congress.

Section 502. The intent of this section is clear.

Section 504. The Secretary is directed by this section to provide Congress with a study of the operation of the historic preservation program and recommendations for changes, in time for Congress to review the program prior to its need for reauthorization in 1987.

Section 505. This section provides for the use of the Pension Building in Washington, D.C. for purposes of a Museum for the Building Arts, while intending the Secretary will also be able to permit the joint use of the building by the Heritage Conservation and Recreation Service. The Administrator of the General Services Administration is directed to commence immediately necessary repairs of the building.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., September 16, 1980.

Hon. HENRY M. JACKSON,
*Chairman, Committee on Energy and Natural Resources,
Dirksen Senate Office Building,
Washington, D.C.*

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed the National Historic Preservation Act Amendments of 1980, as ordered reported by the Senate Committee on Energy and Natural Resources, September 10, 1980.

This bill amends the National Historic Preservation Act of 1966 and directs the Secretary of the Interior to develop or revise regulations regarding certification of state historical preservation programs. Section 204 of the bill establishes a new loan guarantee program, which

directs the Secretary of the Interior to establish and maintain a program for insuring loans made to finance any project for the preservation of a historic property. The loan program guarantee ceiling is set at twice the unappropriated balance of the Historic Preservation Fund, or approximately \$700 million as of the end of fiscal year 1980. There would not be any direct budget impact for the guarantee part of the loan program. However, such guarantees represent a contingent liability to the federal government, and a default on an insured loan would result in federal outlays. Such defaults would be covered by funds provided by appropriations action for just such a purpose. However, it is not possible to estimate the likely default rate and budget impact of the program.

There are authorized to be appropriated for fiscal years after 1981 such sums as may be necessary to cover the expenses of the Advisory Council on Historic Preservation. Such activities are estimated to cost approximately \$2 million in fiscal year 1982, with increases in the later years as a result of inflation.

The bill also directs that the head of each federal agency designate an official to be the agency's "Preservation Officer" and that each agency shall also designate qualified officials at the field or regional level to assist the preservation officer. After discussion with the Heritage Conservation and Recreation Service, it is assumed that such appointments may be made with existing agency personnel. Agencies would not have to designate or entitle a new position to carry out preservation activities, since such functions may be carried out by existing personnel who handle environmental issues. Thus, no new costs are estimated for this provision.

In addition, the bill extends current law and directs that \$150 million of Outer Continental Shelf Lands Act receipts from fiscal year 1982 through 1987 be available for appropriation for the Historic Preservation Fund. This is the same amount covered into the Historic Preservation Fund for fiscal years 1980 and 1981, although appropriations in recent years have been far below that level (\$60 million in fiscal year 1979 and \$55 million in 1980).

This letter supersedes an estimate provided on September 15, 1980, that contained an incorrect figure for the expenses of the Advisory Council on Historic Preservation. Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

Alice M. Rivlin, *Director.*

REGULATORY IMPACT EVALUATION

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses. It is a continuation of the existing historic preservation program with the amendments intended to help the program function more efficiently.

No personal information would be collected in administering the program, therefore, there would be no impact on personal privacy.

Little if any additional paperwork would result from the enactment of S. 3116.

EXECUTIVE COMMUNICATIONS

There were no executive communications received in regard to S. 3116. The following letter was received when S. 1842 was transmitted to the Senate.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., September 10, 1979.

HON. WALTER F. MONDALE,
President of the U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is the "National Heritage Policy Act of 1979," a bill to implement the National Heritage Program called for in President Carter's 1977 Environmental Message. The bill is the result of a study initiated in June 1977 by a National Heritage Task Force and program decisions made thereafter by this Department and the President. The Task Force was composed of numerous representatives of Federal and State agencies, private organizations, and individuals. Its recommendations have been widely circulated to interested individuals, groups, and government officials throughout the country.

We recommend that the enclosed bill be referred to the appropriate committee for consideration, and that it be enacted.

The purpose of the bill is to establish a national policy and provide the basis for implementing a program to assist in the identification and protection of areas and places of significance to our heritage. Our national heritage consists of that collection of resources important to Americans because they are significant aspects of our history and culture and significant elements of our natural environment. Natural areas include lands and waters of ecologic and geologic significance to this Nation's natural environment at the national, State, and local level. Historic places include districts, sites, buildings, structures, objects, networks, cultural landscapes, and neighborhoods significant in American history, architecture, archeology or culture at national, State and local levels. By identifying these areas and places, we will be helping to preserve our American heritage.

The National Heritage Program is a Federal initiative to work with the States and others to coordinate and strengthen existing public and private efforts to identify and protect significant natural areas and historic places. It will also provide a basis for developing and refining a consistent policy and program for heritage resources. The National Heritage Policy Act will not supplant any existing Federal program which identifies or protects natural areas or historic places. It will assist those programs by assuring that information on such resources is available to those programs in a timely manner and in a useful form. As such, it will facilitate rather than obstruct Federal planning and Federal actions. In addition, the bill provides for the judicious application of exemptions from the program and agencies may issue counterpart regulations to ensure that program compliance is consistent with their missions, mandates, and time requirements.

Since a national program for historic preservation has been in place since the 1966 National Historic Preservation Act, the natural heritage component of the National Heritage Program must be brought up to a similar level of sophistication and development. The national program seeks to recognize, and use as a foundation, the accomplishments of Federal land management agencies and financial and technical assistance programs, and the efforts of State and local governments, Indian tribes, and private organizations and individuals as a means to efficient and effective identification and protection of heritage resources. Thus, the bill does not substantially change the requirements of existing programs for historic resources and seeks to build similar responsibilities for the conservation of significant natural areas. In order to avoid the additional regulations inherent in Federal programs, participation by the States is voluntary and Federal activities to support the program are to be consistent with their mission and mandates.

The proposal for a National Heritage Policy is designed to reduce duplicative inventory efforts and to enhance efficiency by coordinating ongoing heritage resource identification efforts. It will also improve the planning process of Federal agencies and aid environmental review by making information on the location, status, and condition of significant heritage resources available at early phases in planning. As such, this proposal is not another Federal acquisition program or protective system of Federal lands, but rather an effort to develop a uniform and consistent approach to the identification and inventory of significant natural areas and historic places—the foundation of a nationwide effort to protect heritage resources through informed planning and policy making.

The key components of the proposed National Heritage Program are as follows:

1. *The identification of potential heritage areas and places.*—Identification of natural and historic resources is a major step in the preservation of our national heritage. Identification of heritage resources will be undertaken by the States through State Natural Heritage Programs which they may voluntarily participate in, as established by section 201(f) and the State Historic Preservation Programs established in 201(g). Financial support for these programs will be available from the Land and Water Conservation Fund and the Historic Preservation Fund, respectively. Federal agencies are directed to locate and nominate to the Historic Register historic resources located on lands which they own or administer which appear to the head of any such agency to be eligible for the Historic Register, and similarly to cooperate with the Secretary and the States in identifying and nominating areas for the Natural Register.

2. *The Registers.*—Once identified, the States, Federal agencies, Indian tribes, individuals, or public or private agencies, as appropriate, may recommend areas and places which appear to be eligible for listing in either the National Register of Natural Areas, established by section 201(b) of this Act, or the National Register of Historic Places. The Secretary already administers the National Register of Historic Places under authority of the National Historic

Preservation Act of 1966, as amended, 16 U.S., § 470 *et seq.* These recommendations will be forwarded to the Secretary as nominations to the Registers by the State Natural Heritage Officer or the State Historic Preservation Officer. In all cases, the owner of the resource will be notified when it is recommended for either Register. The criteria for natural areas and historic places of national, State, or local significance will be established under the Secretary's direction within one year of the effective date of the Act. These criteria will be developed in consultation with appropriate Federal agencies and participating States. The Registers will contain a comprehensive listing of areas and places significant to this nation's heritage which Federal agencies and State and local governments should consult early in their planning processes.

The criteria to be prepared for the designation of nationally significant areas will be capable of excluding as well as including areas and will be of high enough standards to limit those properties selected for national significance to a relatively small proportion of all properties eligible to be placed on the National Registers. Natural areas determined to be of national significance which are on the Register will be designated as National Natural Landmarks; nationally significant historic places which are on the Register will be designated as National Historic Landmarks.

3. *Protection.*—Once listed on either Register, or determined to be eligible for listing, significant natural areas and historic places will receive a variety of protections:

a. The heads of Federal agencies responsible for Federal or federally assisted actions which may affect listed or eligible areas and places will be required to take such effects into consideration for the purpose of avoiding or mitigating adverse impacts. This consideration will include consultation with the Council on Heritage Conservation, an independent Federal agency established by Title III of the bill. This procedure is currently required for places listed in or eligible for listing on the National Register of Historic Places, pursuant to section 106 of the National Historic Preservation Act of 1966, as amended. Section 204 of the bill extends the section 106 requirements to natural areas. The Advisory Council on Historic Preservation is renamed the Council on Heritage Conservation and has been expanded to include certain responsibilities for natural areas. The requirements of section 106 of the Historic Preservation Act of 1966, as amended, and section 204 of this Act will not prohibit Federal or federally assisted actions which may adversely affect eligible or listed areas and places, but will help assure that efforts to avoid unnecessary adverse impacts are undertaken.

b. Section 205 of the bill requires that any Natural or Historic Landmarks not be adversely affected by any Federal undertaking unless no prudent and feasible alternative exists, and then only when planning and action are undertaken to minimize harm. This requirement, although not prohibiting adverse impacts on listed areas and places, will assure that efforts to avoid unnecessary adverse impacts are undertaken.

c. Although no new or additional planning, acquisition, or development funds are called for in this bill, States may use Federal financial

assistance for planning, acquisition, and appropriate development of significant natural areas and historic places. This element of the program is currently in effect for historic places under the Historic Preservation Fund established by the National Historic Preservation Act of 1966, as amended. Section 207 of this bill will make available similar funding arrangements for natural areas by amending section 6 of the Land and Water Conservtaion Fund Act, as amended, 16 U.S.C. § 4601-8, to authorize Federal assistance to States that wish to use this funding source for planning, acquisition, and development of eligible natural areas even though, in some instances, the recreational use of such areas and places may have to be limited in order to protect fragile resources.

d. In addition to the specific protection measures mentioned above, section 202 of the bill gives general authority to the Secretary to (1) further the identification and protection of significant natural areas and historic places through technical assistance, consultation and cooperation with other Federal agencies; (2) extend honorific recognition of exceptional efforts by local governments and the private sector in the identification and protection of heritage resources; and (3) study, in cooperation with other agencies and organizations, other appropriate protection measures and actions.

As an administrative complement to the legislative proposal, the Secretary has established, by Secretarial Order No. 3017 of January 25, 1978, a Heritage Conservation and Recreation Service within the Department of the Interior. This Service administers most of the programs formerly administered by the Bureau of Outdoor Recreation. In addition, the Secretarial Order transferred from the National Park Service to the Heritage Conservation and Recreation Service the National Natural Landmarks Program and the Office of Archeology and Historic Preservation, which administers the Historic Preservation Fund, the National Register of Historic Places, and the National Historic Landmarks Program. The consolidation of the planning and grant administration activities relating to outdoor recreation and the conservation of natural areas and historic places will serve to strengthen the efficiency and effectiveness of these programs and achieve necessary coordination between them which was lacking in the past.

The Office of Management and Budget has advised that this legislative proposal is in accord with the program of the President.

Sincerely,

ROBERT HERBST,
Assistant Secretary.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. , as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman).

NATIONAL HISTORIC PRESERVATION ACT (1966)

AN ACT To establish a program for the preservation of additional historic properties throughout the Nation, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) This Act may be cited as the "National Historic Preservation Act".

(b) The Congress finds and declares that—

[(a) that] (1) the spirit and direction of the Nation are founded upon and reflected in its historic [past;] *heritage*;

[(b) that] (2) the historical and cultural foundations of the Nation should be preserved as a living part of our community life and development in order to give a sense of orientation to the American people;

(3) *historic properties significant to the Nation's heritage are being lost or substantially altered, often inadvertently, with increasing frequency;*

(4) *the preservation of this irreplaceable heritage is in the public interest so that its vital legacy of cultural, educational, aesthetic, inspirational, economic, and energy benefits will be maintained and enriched for future generations of Americans;*

[(c) that,] (5) in the face of ever-increasing extensions of urban centers, highways, and residential, commercial, and industrial developments, the present governmental and nongovernmental historic preservation programs and activities are inadequate to insure future generations a genuine opportunity to appreciate and enjoy the rich heritage of our Nation; [and]

(6) *the increased knowledge of our historic resources, the establishment of better means of identifying and administering them, and the encouragement of their preservation will improve the planning and execution of Federal and federally assisted projects and will assist economic growth and development; and*

[(d) that,] (7) although the major burdens of historic preservation have been borne and major efforts initiated by private agencies and individuals, and both should continue to play a vital role, it is nevertheless necessary and appropriate for the Federal Government to accelerate its historic preservation programs and activities, to give maximum encouragement to agencies and individuals undertaking preservation by private means, and to assist State and local governments and the National Trust for Historic Preservation in the United States to expand and accelerate their historic preservation programs and activities.

SEC. 2. *It shall be the policy of the Federal Government in cooperation with other nations and in partnership with the States, local communities, Indian tribes, and private organizations and individuals to—*

(1) *use measures, including financial and technical assistance, to foster conditions under which our modern society and our prehistoric and historic resources can exist in productive harmony and fulfill social, economic, and other requirements of present and future generations;*

(2) *provide leadership in the preservation of the prehistoric and historic resources of the United States and of the international community of nations;*

(3) *administer federally owned, administered, or controlled prehistoric and historic resources in a spirit of stewardship for the inspiration and benefit of present and future generations;*

(4) *contribute to the preservation of nonfederally owned prehistoric and historic resources and give maximum encouragement to organizations and individuals undertaking preservation by private means;*

(5) *encourage the public and private preservation and utilization of all usable elements of the Nation's built environment; and*

(6) *assist State and local governments and the National Trust for Historic Preservation in the United States to expand and accelerate their historic preservation programs and activities.*

TITLE I

[SEC. 101. (a) The Secretary of the Interior is authorized—

[(1) to expand and maintain a national register of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, and culture, hereinafter referred to as the National Register, and to grant funds to States for the purpose of preparing comprehensive statewide historic surveys and plans, in accordance with criteria established by the Secretary, for the preservation, acquisition, and development of such properties;

[(2) to establish a program of matching grants-in-aid to States for projects having as their purpose the preservation for public benefit of properties that are significant in American history, architecture, archeology, and culture; and ¹

[(3) to establish a program of matching grant-in-aid to the National Trust for Historic Preservation in the United States, chartered by act of Congress approved October 26, 1949 (63 Stat. 927), as amended, for the purpose of carrying out the responsibilities of the National Trust.²

[(4) to withhold from disclosure to the public, information relating to the location of sites or objects listed on the National Register whenever he determines that the disclosure of specific information would create a risk of destruction or harm to such sites or objects.

[(b) As used in this Act—

[(1) The term "State" includes, in addition to the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

[(2) The term "project" means programs of State and local governments and other public bodies and private organizations and individuals for the acquisition of title or interests in, and for the development of, any district, site, building, structure, or object that is significant in American history, architecture,

archeology, and culture, or property used in connection therewith, and for its development in order to assure the preservation for public benefit of any such historical properties.

【(3) The term "historic preservation" includes the protection, rehabilitation, restoration, and reconstruction of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, or culture.

【(4) The term "Secretary" means the Secretary of the Interior.】

Sec. 101. (a) (1) (A) The Secretary of the Interior shall establish a continuing program to identify and evaluate this Nation's cultural resources and to expand and maintain a National Register of Historic Places composed of districts, sites, buildings, structures, and objects of national, State, and local significance in American prehistory, history, architecture, archeology, engineering, and culture.

(B) Properties meeting the criteria for national significance established pursuant to paragraph (2) shall be designated as "National Historic Landmarks" and included in the National Register. All historic properties now included in the National Register shall be deemed to be included in the National Register as of their initial listing for purposes of this Act. All historic properties listed in the Federal Register of February 6, 1979, as "National Historic Landmarks" or thereafter prior to the effective date of this Act are declared by Congress to be National Historic Landmarks of national historic significance as of their initial listing as such in the Federal Register for purposes of this Act: Provided, That in cases of National Historic Landmark districts for which no boundaries have been established, boundaries must first be published in the Federal Register and submitted to the Committee on Energy and Natural Resources of the United States Senate and to the Committee on Interior and Insular Affairs of the United States House of Representatives.

(2) The Secretary shall establish or revise criteria for properties to be included in the National Register and criteria for historic properties which are of national significance, and shall promulgate or revise regulations as may be necessary for—

(A) nominating properties for inclusion in or removing them from the National Register by Federal agencies and State Historic Preservation Officers, and the recommendation of properties by certified local governments;

(B) designating properties as National Historic Landmarks;

(C) considering appeals from such recommendations, nominations, or designations, or the failure to nominate or designate made by an owner of an affected property, the applicable local government, or the general public;

(D) nominating properties for inclusion in the World Heritage List in accordance with the terms of the Convention Concerning the Protection of the World Cultural and Natural Heritage;

(E) making determinations of eligibility of properties for inclusion in the National Register; and

(F) notifying the owner of a property, any appropriate local governments, and the general public when a property is being considered for inclusion in the National Register or for designation as a National Historic Landmark.

(3) Any State which is carrying out a program approved under subsection (b), and any Federal agency pursuant to section 110, shall nominate to the Secretary a property for inclusion in the National Register when it meets the criteria promulgated under subsection (a). Any property nominated under this paragraph shall be included in the National Register on the date 45 days after receipt by the Secretary of the nomination and the necessary documentation, unless the Secretary disapproves such nomination within that 45-day period.

(4) Any person or local government may propose that a State consider a property for nomination for inclusion in the National Register.

(5) The Secretary shall promulgate or revise regulations for—

(A) ensuring that significant prehistoric and historic artifacts, and associated records subject to section 110 or the Act of June 27, 1960 (16 U.S.C. 469c), are deposited in an institution with adequate long-term curatorial capabilities;

(B) establishing a uniform process and standards for documenting historic properties by public agencies and private parties for purposes of their incorporation into, or complementing the national historical architectural and engineering records within the Library of Congress; and

(C) certifying local governments, in accordance with this Act, and for the allocation of funds pursuant to section 103(c) of this Act.

(b) (1) The Secretary shall develop or revise regulations for State Historic Preservation Programs. These programs may include appropriate governmental mechanisms for the professional preservation of historic properties and assistance to local governments and private organizations and individuals undertaking preservation activities, such as grants, loans, loan guarantees, education, training, and any other mechanisms as the Secretary determines will carry out the purposes of this Act. The regulations shall provide that a State program submitted to the Secretary under this section shall be approved by the Secretary if he determines that the program—

(A) provides for the designation by the Governor of a "State Historic Preservation Officer" to administer the program in accordance with paragraph (4) and for the employment or appointment by the officer of any professionally qualified staff as may be necessary for such purposes;

(B) provides for an adequate and qualified State Review Board designated by the State Historic Preservation Officer unless otherwise provided for by State law; and

(C) provides for adequate public participation in the State Historic Preservation Program, including the process of recommending properties for nomination to the National Register.

(2) Not less than every four years after the approval of any State program under this subsection, the Secretary shall evaluate the program to make a determination as to whether or not it is in compliance with the requirements of this Act. If at any time, the Secretary determines that a State program does not comply with such requirements, he shall disapprove the program, and suspend in whole or in part assistance to that State under subsection (d) (1), unless there are adequate assurances that the program will comply with such require-

ments within a reasonable period of time. The Secretary may also conduct periodic fiscal audits of State programs approved under this part.

(3) It shall be the responsibility of the State Historic Preservation Officer to administer the State Historic Preservation Program and to—

(A) direct and conduct a comprehensive statewide survey of historic properties and maintain inventories of these properties in cooperation with local governments and private organizations and individuals;

(B) identify and nominate eligible properties to the National Register and otherwise administer applications for listing historic properties in or removing them from the National Register;

(C) prepare and implement a comprehensive statewide historic preservation plan;

(D) administer the State program of Federal assistance for historic preservation within the State;

(E) advise and assist, as appropriate, Federal agencies and local governments in carrying out their historic preservation responsibilities;

(F) cooperate with the Secretary, the Advisory Council on Historic Preservation, and other Federal, State, and local agencies, and organizations and individuals to ensure that historic properties are taken into consideration at all levels of planning and development;

(G) provide public information, education, and training and technical assistance relating to the Federal and State Historic Preservation Programs; and

(H) cooperate with local governments in the development of local historic preservation programs and assist local governments in becoming certified pursuant to subsection (c).

(4) Any State may carry out all or any part of its responsibilities under this subsection by contract or cooperative agreement with any qualified nonprofit organization or educational institution.

(5) Any State historic preservation program in effect under prior authority of law, may be treated as an approved program for purposes of this subsection until the earlier of—

(A) the date on which the Secretary approves a program submitted by the State under this subsection; or

(B) three years after the date of enactment of the National Historic Preservation Act Amendments of 1980.

“(c) (1) Any State program approved under this section shall provide a mechanism for the certification by the State Historic Preservation Officer of local governments to carry out the purpose of this Act and provide for the transfer, in accordance with section 103(c), of a portion of the grants received by the States under this Act, to such local governments. Any local government shall be certified to participate under the provisions of this section if the applicable State Historic Preservation Officer and the Secretary certifies that the local government—

(A) enforces appropriate State or local legislation for the designation and protection of historic properties;

(B) has established an adequate and qualified historic preservation commission by State or local legislation;

(C) maintains a system for the survey and inventory of historic properties that furthers the purposes of subsection (b);

(D) provides for adequate public participation in the local historic preservation program, including the process of recommending properties for nomination to the National Register; and

(E) satisfactorily performs the responsibilities delegated to it under this Act.

Where there is no approved State program, a local government may be certified by the Secretary if he determines that the local government meets the requirements of subparagraphs (A) through (E); and in any such case the Secretary may make grants-in-aid to the local government for purposes of this section.

(2) (A) Before a property within the jurisdiction of the certified local government may be nominated to the Secretary for inclusion in the National Register, the State Historic Preservation Officer shall notify the owner, the applicable chief local elected official, and the local historic preservation commission. The commission, after reasonable opportunity for public comment, shall prepare a report as to whether or not such property in its opinion meets the criteria of the National Register. Within 60 days of notice from the State Historic Preservation Officer, the chief local elected official shall transmit the report of the commission and his recommendation to the State Historic Preservation Officer. After receipt of the report and recommendation, or if no such report and recommendation are received within 60 days, the State shall make the nomination pursuant to section 101(a), except as provided in subparagraph (B) of this section. The State may expedite such process with the concurrence of the certified local government.

(B) If both the commission and the chief local elected official recommend that a property not be nominated to the National Register, the State Historic Preservation Officer shall take no further action, unless within 30 days of the receipt of such recommendation by the State Historic Preservation Officer an appeal is filed with the State. If an appeal is filed, the State shall make the nomination pursuant to section 101(a). Any report and recommendations made under this section shall be included with any nomination submitted by the State to the Secretary.

(3) Any local government certified under this section, or which is making efforts to become so certified, shall be eligible for purposes of qualifying for funds under the provisions of section 103(c) of this Act, and shall carry out any responsibilities delegated to it in accordance with such terms and conditions as the Secretary deems necessary or advisable.

(d) (1) The Secretary shall administer a program of matching grants-in-aid to the States for projects and State historic preservation programs approved by the Secretary and having as their purpose the identification and preservation for public benefit of historic properties.

(2) The Secretary shall administer a program of matching grant-in-aid to the National Trust for Historic Preservation in the United States, chartered by Act of Congress approved October 26, 1949 (63 Stat. 927), as amended, for the purposes of carrying out the responsibilities of the National Trust.

(3) (A) *In addition to the programs under paragraphs (1) and (2), the Secretary may administer a program of direct grants for the preservation of historic properties. These grants may be made by the Secretary, in consultation with any appropriate State Historic Preservation Officer—*

(i) for the preservation of National Historic Landmarks which are threatened with demolition or impairment and for the preservation of historic properties of World Heritage significance,

(ii) for demonstration projects which will provide information concerning professional methods and techniques having application to historic properties,

(iii) for the training and development of skilled labor in trades and crafts relating to historic preservation; and

(iv) to assist persons or small businesses within any historic district to remain within the district.

(B) The Secretary may also, in consultation with the appropriate State Historic Preservation Officer, make grants or loans or both under this section to Indian tribes and to nonprofit organizations representing ethnic or minority groups for the preservation of their cultural heritage and to States having programs for cultural parks or conservation districts for demonstration projects relating to the protection of cultural resources.

(e) In consultation with the Advisory Council on Historic Preservation, the Secretary shall promulgate guidelines for Federal agency responsibilities under section 110 of this title.

(f) Within one year of the date of enactment of the National Historic Preservation Act Amendments of 1980, the Secretary shall establish, in consultation with the Smithsonian Institution and the Administrator of the General Services Administration, professional standards for the preservation of federally owned historic properties.

(g) The Secretary shall develop and make available to Federal agencies, State and local governments, private organizations and individuals, and other nations and international organizations pursuant to the World Heritage Convention, training in and information concerning, professional methods and techniques for the preservation of historic properties and for the administration of the historic preservation program at the Federal, State, and local level. The Secretary shall also develop mechanisms to provide information concerning historic preservation to the general public including students.

SEC. 102. (a) No grant may be made under this Act—

(1) unless application therefor is submitted to the Secretary in accordance with regulations and procedures prescribed by him;

(2) unless the application is in accordance with the comprehensive statewide historic preservation plan which has been approved by the Secretary after considering its relationship to the comprehensive statewide outdoor recreation plan prepared pursuant to the Land and Water Conservation Fund Act of 1965 (78 Stat. 897);

[(3) for more than 50 per centum of the total cost involved, as determined by the Secretary and his determination shall be final;]

(3) for more than 50 per centum of the total costs of carrying out projects and programs specified in section 101(d) (1) and (2), except that for the costs of State or local preservation plans, surveys, or inventories, the Secretary shall provide 70 per centum of the costs involved. The per centum limitations shall be applied on an aggregate basis with respect to all expenditures for projects and programs during any fiscal year. Except as permitted by other law, the remaining per centum shall be contributed by non-Federal sources. Notwithstanding any other provision of law, no grant made pursuant to this Act shall be treated as taxable income for purposes of the Internal Revenue Code of 1954 or for purposes of any State or local law imposing a tax on income.

* * * * *
SEC. 103. (a) * * *

(b) The amounts appropriated and made available for grants to the States for projects and programs under this Act for each fiscal year shall be apportioned among the States by the Secretary in accordance with needs as disclosed in approved statewide historic preservation plans.

【The Secretary shall notify each State of its apportionment, and the amounts thereof shall be available thereafter for payment to such State for projects in accordance with the provisions of this Act.】*The Secretary shall notify each State of its apportionment under this subsection within thirty days following the date of enactment of legislation appropriating funds under this Act.* Any amount of any apportionment that has not been paid or obligated by the Secretary during the fiscal year in which such notification is given and for two fiscal years thereafter, shall be reapportioned by the Secretary in accordance with this subsection.

(c) *A minimum of ten per centum of the annual apportionment distributed by the Secretary to each State for the purposes of carrying out this Act shall be used, pursuant to the requirements of this Act, for historic preservation projects or programs of local governments which are either certified under section 101 (c) or are making efforts to become so certified. In any year in which the annual apportionment to the States exceeds \$65,000,000, one-half of the excess shall also be distributed to local governments certified or making efforts to become certified pursuant to section 101 (c).*

(d) *The Secretary shall establish guidelines for the use and distribution of funds under subsection (c) to insure that no local government receives a disproportionate share of the funds available and may include a limitation on the amount of funds distributed to any single local government. The guidelines shall not limit the ability of any State to distribute more than ten per centum of its annual apportionment under subsection (c), nor shall the Secretary require any State to exceed the ten per centum minimum distribution to local governments.*

【SEC. 104. (a) No grant may be made by the Secretary for or on account of any survey or project under this Act with respect to which financial assistance has been given or promised under any

other Federal program or activity, and no financial assistance may be given under any other Federal program or activity for or on account of any survey or project with respect to which assistance has been given or promised under this Act.

[(b) In order to assure consistency in policies and actions under this Act with other related Federal programs and activities, and to assure coordination of the planning acquisition, and development assistance to States under this Act with other related Federal programs and activities, the President may issue such regulations with respect thereto as he deems desirable, and such assistance may be provided only in accordance with such regulations.]

Sec. 104. (a) The Secretary shall establish and maintain a program by which he may upon application of a private lender, insure loans (including loans made in accordance with a mortgage) made by such lender to finance any project for the preservation of a historic property.

(b) A loan may be insured under this section only if—

(1) the loan is made by a private lender approved by the Secretary as financially sound and able to service the loan properly;

(2) the interest rate charged with respect to the loan does not exceed a rate established by the Secretary, by rule;

(3) the Secretary has consulted the appropriate State Historic Preservation Officer concerning the preservation of the historic property;

(4) the Secretary has determined that the loan is adequately secured and there is reasonable assurance of repayment;

(5) the repayment period of the loan does not exceed the lesser of 40 years or the expected life of the asset financed;

(6) the amount insured with respect to such loan does not exceed ninety per centum of the loss sustained by the lender with respect to the loan; and

(7) the loan, the borrower, and the preservation of the historic property meet other terms and conditions as may be prescribed by the Secretary, by rule, especially terms and conditions relating to the nature and quality of the preservation work.

(c) The aggregate unpaid principal balance of loans insured under this section and outstanding at any one time may not exceed twice the amount which has been covered into the Historic Preservation Fund pursuant to section 108 and subsections (g) and (i) of this section but which has not been appropriated for any purpose.

(d) Any contract of insurance executed by the Secretary under this section may be assignable and shall be an obligation supported by the full faith and credit of the United States and incontestable except for fraud or misrepresentation of which the holder had actual knowledge at the time it became a holder.

(e) The Secretary shall specify, by rule and in each contract entered into under this section, the conditions and method of payment to a private lender as a result of losses incurred by the lender on any loan insured under this section.

(f) In entering into any contract to insure a loan under this section, the Secretary shall take steps to assure adequate protection of the financial interests of the Federal Government. The Secretary may—

(1) in connection with any foreclosure proceeding, obtain, on behalf of the Federal Government, the property securing a loan insured under this title; and

(2) operate or lease such property for such period as may be necessary to protect the interest of the Federal Government and to carry out subsection (g).

(g) (1) In any case in which a historic property is obtained pursuant to subsection (f), the Secretary shall attempt to convey such property to any governmental or nongovernmental entity under such conditions as will ensure the property's continued preservation and use; except that if, after a reasonable time, the Secretary, in consultation with the Advisory Council on Historic Preservation, determines that there is no feasible and prudent means to convey such property and to ensure its continued preservation and use for the public benefit, then the Secretary may convey the property at the fair market value of its interest in such property to any entity without restriction.

(2) Any funds obtained by the Secretary in connection with the conveyance of any property pursuant to paragraph (1) shall be covered into the Historic Preservation Fund, in addition to the amounts covered into such Fund pursuant to section 108 and subsection (i) of this section, and shall remain available in such Fund until appropriated by the Congress to carry out the purposes of this Act.

(h) The Secretary may assess appropriate and reasonable fees in connection with insuring loans under this section. Any such fees shall be covered into the Historic Preservation Fund, in addition to the amounts covered into such Fund pursuant to section 108 and subsection (g) of this section, and shall remain available in such Fund until appropriated by the Congress to carry out purposes of this Act.

(i) Notwithstanding any other provision of law, any loan insured under this section shall be treated as non-Federal funds for the purposes of satisfying any requirement of any other provision of law under which Federal funds to be used for any project or activity are conditioned upon the use of non-Federal funds by the recipient for payment of any portion of the costs of such project or activity.

(j) There are authorized to be appropriated after October 1, 1981, such sums as may be necessary to carry out the activities under this section.

* * * * *

SEC. 108. To carry out the provisions of this Act, there is hereby established the Historic Preservation Fund (hereafter referred to as the "fund") in the Treasury of the United States.

There shall be covered into such fund \$24,400,000 for fiscal year 1977, \$100,000,000 for fiscal year 1978, \$100,000,000 for fiscal year 1979, \$150,000,000 for fiscal year 1980, and \$150,000,000 for fiscal year 1981, and \$150,000,000 for each of fiscal years 1982 through 1987 from revenues due and payable to the United States under the Outer Continental Shelf Lands Act (67 Stat. 462, 469), as amended (43 U.S.C. 338), and/or under the Act of June 4, 1920 (41 Stat. 813), as amended (30 U.S.C. 191), notwithstanding any provision of law that such proceeds shall be credited to miscellaneous receipts of the Treasury. Such moneys shall be used only to carry out the purposes of this Act and shall be available for expenditure only when appropriated by

the Congress. Any moneys not appropriated shall remain available in the fund until appropriated for said purposes: *Provided*, That appropriations made pursuant to this paragraph may be made without fiscal year limitation.

* * * * *

SEC. 110. (a) (1) *The heads of all Federal agencies shall assume responsibility for the preservation of historic properties which are owned or used by the agency. Each Federal agency having responsibility for the management of any real property shall, in carrying out the agency's responsibilities under other provisions of Federal law, give a priority to the use, including compatible adaptive use, of historic properties that are owned or used by the agency. Each agency shall undertake, consistent with the preservation of such properties, the mission of the agency, and the professional standards established pursuant to section 101 (f), any preservation as may be necessary to carry out this section.*

(2) *With the advice of the Secretary and in cooperation with the State Historic Preservation Officer for the State involved, each Federal agency shall locate, inventory, and nominate to the Secretary all properties owned or used by the agency that appear to qualify for inclusion in the National Register in accordance with the regulations promulgated under section 101 (a) (2) (A). Each Federal agency shall exercise caution to assure that any such property that might qualify for inclusion is not inadvertently transferred, sold, demolished, substantially altered, or allowed to deteriorate significantly.*

(b) *Each Federal agency shall initiate measures to assure that where, as a result of Federal action or assistance carried out by the agency, a historic property is to be substantially altered or demolished, timely steps are taken to make or have made appropriate records, and that these records then be deposited, in accordance with section 101 (a), in the Library of Congress or with any other appropriate agency as may be designated by the Secretary, for future use and reference.*

(c) *The head of each Federal agency shall designate a qualified official to be the agency's 'Preservation Officer', who shall be responsible for coordinating that agency's activities under this Act. Each Federal agency shall also develop a system to provide for the designation of qualified officials at the field or regional level, as appropriate, to assist the Preservation Officer in carrying out his functions. Each Preservation Officer and official designated at the field or regional level may, in order to be considered qualified, satisfactorily complete the training program established by the Secretary pursuant to section 101 (g).*

(d) *All Federal agencies shall carry out agency programs and projects (including those under which any Federal assistance is provided or any Federal license, permit, or other approval is required) in accordance with the purposes of this Act and, consistent with the agency's mission and mandates, give a priority to programs and projects which will further the purposes of this Act.*

(e) *Prior to the approval of any Federal undertaking which may adversely affect any National Historic Landmark, the head of any Federal agency shall determine that no prudent and feasible alterna-*

tive to such undertaking exists, shall, to the maximum extent possible, undertake such planning and actions as may be necessary to minimize harm to such Landmark, and shall afford the Advisory Council on Historic Preservation a reasonable opportunity to comment on the undertaking.

(f) The Secretary shall review and approve the plans of transferees of surplus federally owned historic properties to ensure that the prehistorical, historical, architectural, or culturally significant values will be preserved or enhanced.

(g) Each Federal agency shall include the costs of its preservation activities as eligible project costs in all undertakings of the agency or assisted by the agency. The eligible project costs shall also include amounts paid by a Federal agency to any State to be used in carrying out the preservation responsibilities of the Federal agency under this Act, and may be charged to Federal licensees and permittees as a condition to the issuance of such license or permit.

SEC. 111. (a) Notwithstanding any other provision of law, each Federal agency having responsibility for the management of any historic property may, after consultation with the Advisory Council on Historic Preservation, lease such property to any person or organization, or exchange the property with equivalent property, if the agency head determines that the lease or exchange will adequately insure the preservation of such property.

(b) The proceeds of any lease under subsection (a) may, notwithstanding any other provision of law, be retained by the agency entering into the lease and used to defray the costs of administration, maintenance, repair, and related expenses incurred by the agency with respect to such property of other properties which are in the National Register which are owned by, or are under the jurisdiction or control of, such agency. Any surplus proceeds from such leases shall be deposited into the Treasury of the United States at the end of the second fiscal year following the fiscal year in which the proceeds were received.

(c) The head of any Federal agency having responsibility for the management of any historic property may, after consultation with the Advisory Council on Historic Preservation, enter into contracts for the management of such property. Any contract shall contain such terms and conditions as the head of the agency deems necessary or appropriate to protect the interests of the United States and insure adequate preservation of the historic property.

TITLE II

SEC. 201. (a) There is established as an independent agency of the United States Government an Advisory Council on Historic Preservation (hereinafter referred to as the "Council") which shall be composed of [twenty-nine members as follows:] the following members:

- (1) a Chairman appointed by the President selected from the general public;
- (2) the Secretary of the Interior;
- (3) the Architect of the Capitol;

(4) *the heads of four agencies of the United States (other than the Department of the Interior) the activities of which affect historic preservation, appointed by the President;*

(5) *one Governor appointed by the President;*

(6) *one Mayor appointed by the President;*

(7) *the President of the National Conference of State Historic Preservation Officers;*

(8) *the Chairman of the National Trust for Historic Preservation;*

(9) *four experts in the field of historic preservation appointed by the President from the disciplines of architecture, history, archeology, and other appropriate disciplines; and*

(10) *three at-large members from the general public, appointed by the President.*

(b) Each member of the Council specified in paragraphs [(1) through (17)] (2) through (8) (other than (5) and (6)) of subsection (a) may designate another officer of his department, agency, or organization to serve on the Council in his stead, *except that, in the case of paragraphs (2) and (4), no such officer who is below the rank of Assistant Secretary may be so designated.*

[(c) Each member of the Council appointed under paragraph (18) of subsection (a) shall serve for a term of five years from the expiration of his predecessor's term; except that the members first appointed under that paragraph shall serve for terms of from one to five years, as designated by the President at the time of appointment, in such manner as to insure that the terms of not less than one nor more than two of them will expire in any one year.

[(d) A vacancy in the Council shall not affect its powers, but shall be filled in the same manner as the original appointment (and for the balance of the unexpired term).

[(e) The Chairman and the Vice Chairman of the Council shall be designated by the President. During the absence or disability of the Chairman or when the office is vacant, the Vice Chairman shall act in the place of the Chairman.]

(c) *Each member of the Council appointed under paragraph (1), and under paragraphs (9) and (10) of subsection (a) shall serve for a term of four years from the expiration of his predecessor's term; except that the members first appointed under that paragraph shall serve for terms of one to four years, as designated by the President at the time of appointment, in such manner as to insure that the terms of not more than two of them will expire in any one year. The members appointed under paragraphs (5) and (6) shall serve for the term of their elected office but not in excess of four years. An appointed member may not serve more than two terms. An appointed member whose term has expired shall serve until that member's successor has been appointed.*

(d) *A vacancy in the Council shall not affect its powers, but shall be filled not later than 60 days after such vacancy commences in the same manner as the original appointment (and for the balance of any unexpired terms). The members of the Advisory Council on Historic Preservation appointed by the President under this Act as in effect on the day before the date of enactment of the National Historic Preserva-*

tion Act Amendments of 1980 shall remain in office until all members of the Council, as specified in this section, have been appointed. The members first appointed under this section shall be appointed not later than 180 days after the date of enactment of such Act.

(e) The President shall designate a Vice Chairman, from the members appointed under paragraph (5), (6), (9), or (10). The Vice Chairman may act in place of the Chairman during the absence or disability of the Chairman or when the office is vacant.

(f) [Fifteen] Nine members of the Council shall constitute a quorum.

SEC. 202. (a) The Council shall—

(1) advise the President and the Congress on matters relating to historic preservation; recommend measures to coordinate activities of Federal, State, and local agencies and private institutions and individuals relating to historic preservation; and advise on the dissemination of information pertaining to such activities;

(2) encourage, in cooperation with the National Trust for Historic Preservation and appropriate private agencies, public interest and participation in historic preservation;

(3) recommend the conduct of studies in such areas as the adequacy of legislative and administrative statutes and regulations pertaining to historic preservation activities of State and local governments and the effects of tax policies at all levels of government on historic preservation;

(4) advise as to guidelines for the assistance of State and local governments in drafting legislation relating to historic preservation; [and]

(5) encourage, in cooperation with appropriate public and private agencies and institutions, training and education in the field of historic preservation[.]; and

(6) inform and educate Federal agencies, State and local governments, Indian tribes, other nations and international organizations and private groups and individuals as to the Council's authorized activities.

(b) The Council shall submit annually a comprehensive report of its activities and the results of its studies to the President and the Congress and shall from time to time submit such additional and special reports as it deems advisable. Each report shall propose such legislative enactments and other actions as, in the judgment of the Council, are necessary and appropriate to carry out its recommendations[.] and shall provide the Council's assessment of current and emerging problems in the field of historic preservation and an evaluation of the effectiveness of the programs of Federal agencies, State and local governments, and the private sector in carrying out the purposes of this Act.

* * * * *

[SEC. 204. The members of the Council specified in paragraphs (1) through (17) of section 201(a) shall serve without additional compensation. The members of the Council appointed under paragraph (18) of section 201(a) shall receive \$100 per diem when engaged in

the performance of the duties of the Council. All members of the Council shall receive reimbursement for necessary traveling and subsistence expenses incurred by them in the performance of the duties of the Council.】

Sec. 204. The members of the Council specified in paragraphs (2), (3), and (4) of section 201(a) shall serve without additional compensation. The other members of the Council shall receive \$100 per diem when engaged in the performance of the duties of the Council. While away from their homes or regular places of business in the performance of services for the Council all members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code.

SEC. 205. (a) There shall be an Executive Director of the Council who shall be appointed in the competitive service by the Chairman with the concurrence of the Council. The Executive Director shall report directly to the Council and perform such functions and duties as the Council may prescribe.

(b) The Council shall have a General Counsel, who shall be appointed by the Executive Director. The General Counsel shall report directly to the Executive Director and serve as the Council's legal advisor. The Executive Director shall appoint such other attorneys as may be necessary to assist the General Counsel, represent the Council in courts of law whenever appropriate, *including enforcement of agreements with Federal agencies*, assist the Department of Justice in handling litigation concerning the Council in courts of law, and perform such other legal duties and functions as the Executive Director and the Council may direct.

* * * * *

(g) The members of the Council specified in paragraphs 【(1) through (16)】 (2) *through (4)* of section 201(a) shall provide the Council, with or without reimbursement as may be agreed upon by the Chairman and the members, with such funds, personnel, facilities, *moneys*, and services under their jurisdiction and control as may be needed by the Council to carry out its duties, to the extent that such funds, personnel, facilities, and services are requested by the Council and are otherwise available for that purpose. To the extent of available appropriations, the Council may obtain, by purchase, rental, donation, or otherwise, such additional property, facilities, and services as may be needed to carry out its duties 【.】 *and the Executive Director is authorized, in his discretion, to accept, hold, use, expend, and administer the same for the purposes of this Act.*

* * * * *

SEC. 210. 【Whenever the Council transmits any legislative recommendations, or testimony, or comments on legislation to the President or the Office of Management and Budget, it shall concurrently transmit copies thereof to the House Committee on Interior and Insular Affairs and the Senate Committee on Interior and Insular Affairs.**】** No officer or agency of the United States shall have any authority to require the Council to submit its legislative recommendations, or testimony, or

comments on legislation to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress. In instances in which the Council voluntarily seeks to obtain the comments or review of any officer or agency of the United States, the Council shall include a description of such actions in its legislative recommendations, testimony, or comments on legislation which it transmits to the Congress.

SEC. 211. The Council is authorized to promulgate such rules and regulations as it deems necessary to govern the implementation of section 106 of this Act. *The Council shall, by regulation, establish such procedures as may be necessary to provide for participation by local governments in proceedings and other actions taken by the Council with respect to undertakings referred to in section 106 which affect such local governments.*

【SEC. 212. (a) The Council shall submit its budget annually as a related agency of the Department of the Interior. To carry out the provisions of this title, there are authorized to be appropriated not more than \$1,500,000 in fiscal year 1977, \$1,750,000 in fiscal year 1978, and \$2,000,000 in fiscal year 1979. There are authorized to be appropriated not to exceed \$2,250,000 in fiscal year 1980.

【(b) Whenever the Council submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit copies of that estimate or request to the House and Senate Appropriations Committees and the House Committee on Interior and Insular Affairs and the Senate Committee on Interior and Insular Affairs.】

SEC. 212. The Council shall submit its budget annually as a related agency of the Department of the Interior. There are authorized to be appropriated after October 1, 1981, such sums as may be necessary to carry out such activities of the Council as may be authorized by the Congress.”.

SEC. 213. *To assist the Council in discharging its responsibilities under this Act, the Secretary at the request of the Chairman, shall provide a report to the Council detailing the significance of any historic property describing the effects of any proposed undertaking on the affected property, and recommending measures to avoid, minimize, or mitigate adverse effects.*

SEC. 214. *The Council, with the concurrence of the Secretary, shall promulgate regulations or guidelines, as appropriate, under which Federal programs or undertakings may be exempted from any or all of the requirements of this Act when such exemption is determined to be consistent with the purposes of this Act, taking into consideration the magnitude of the exempted undertaking or program and the likelihood of impairment of historic properties.*

TITLE III

SEC. 301. *As used in this Act, the term—*

(1) “Agency” means “agency” as such term is defined in section 551 of title 5, United States Code.

(2) “State” means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the

Virgin Islands, American Samoa, and the Trust Territories of the Pacific Islands.

(3) "Local government" means a city, county, parish, township, municipality, borough, or any other general purpose subdivision of a State.

(4) "Indian tribe" means the governing body of any Indian tribe, band, nation, or other group which is recognized as an Indian tribe by the Secretary of the Interior and for which the United States holds land in trust or restricted status for that entity or its members, and also native villages and regional corporations established pursuant to the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1701 et seq.).

(5) "Historic property" or "historic resource" means any pre-historic or historic district, site, building, structure, or object included in, or eligible for inclusion in the National Register; such term includes artifacts, records, and remains which are related to such a district, site, building, structure, or object.

(6) "National Register" or "Register" means the National Register of Historic Places established under section 101.

(7) "Undertaking" means any action as described in section 106.

(8) "Preservation" or "historic preservation" includes identification, evaluation, recordation, documentation, curation, acquisition, protection, management, rehabilitation, restoration, stabilization, maintenance and reconstruction of historic properties, or any combination of the foregoing activities.

(9) "Secretary" means the Secretary of the Interior unless otherwise specified.

SEC. 302. Each Federal agency is authorized to expend funds appropriated for its authorized programs for the purposes of this Act.

SEC. 303. (a) The Secretary is authorized to accept donations and bequests of money and personal property for the purposes of this Act and shall hold, use, and expend and administer the same for such purposes.

(b) The Secretary is authorized to accept gifts or donations of less than fee interests in any historic property where the acceptance of such interests will facilitate the conservation or preservation of such properties. Nothing in this section or in any provision of this Act shall be construed to affect or impair any other authority of the Secretary under other provision of law to accept or acquire any property for conservation or preservation or for any other purpose.

SEC. 304. The head of any Federal agency, after consultation with the Secretary, shall withhold from disclosure to the public information relating to the location of historic resources whenever the head of the agency or the Secretary of the Interior determines that the disclosure of such information would create a substantial risk of harm, theft, or destruction to such resources or to the area or place where such resources are located.

SEC. 305. In any civil action brought in a United States district court by any interested person to enforce the provisions of this Act, the court may award attorneys' fees, expert witness fees, and other costs of participating in such action, as the court deems reasonable.